

RULE REPORT

Department of Commerce

Clearinghouse Rule No.: 04-135

Rule No.: Chapters Comm 26, 95 and 2

Relating to: Manufactured Home Communities

Contact person for substantive questions:

Contact person for internal processing:

Name Larry Swaziek

Name Ronald Acker

Title Program Manager

Title Code Development Consultant

Telephone Number 608/267-7701

Telephone Number 608/267-7907

1. Basis and purpose of the proposed rule.

The basis of the proposed rule are sections 101.935 and 101.937, Stats., and 2005 Wisconsin Act 45. The purpose of the proposed rule is to update and consolidate the current administrative rules for the licensure and regulation of manufactured home communities and for the provision of water and sewer service to manufactured home community occupants. The purpose is also to incorporate the rule changes required under 2005 Wisconsin Act 45.

2. How the proposed rule advances relevant statutory goals or purposes.

The proposed rule updates the necessary provisions to issue licenses to and to regulate manufactured home communities, and to regulate water and sewer service in manufactured home communities, as required under sections 101.935 and 101.937, Stats. The proposed rule also updates terminology and codifies the fees removed from the statutes, as required under 2005 Wisconsin Act 45.

3. Changes to the rule analysis or fiscal estimate that was prepared for public hearing.

The rule analysis and fiscal estimate that were prepared for public hearing were changed to incorporate the rule revisions and additions required under 2005 Wisconsin Act 45.

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

CLEARINGHOUSE RULE NO.: 04-135

RULE NO.: Chapters Comm 26, 95 and 2

RELATING TO: Manufactured Home Communities

☒ Final regulatory flexibility analysis not required. (Statement of determination required.)

Sections 101.935 and 101.937, Stats., direct the Department to license and regulate manufactured home communities and to regulate the provision of water and sewer service to manufactured home community occupants through the promulgation of administrative rules. The proposed rules of Clearinghouse Rule No. 04-135 are minimum requirements to meet the directive of the Statutes, and any exceptions from compliance for small businesses would be contrary to the Statutory objectives which are the basis for the rules.

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.
2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

3. Nature and estimated cost of preparation of any reports by small businesses.
4. Nature and estimated cost of other measures and investments required of small businesses.
5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small businesses.
6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 04-135

RULE NO.: Chapters Comm 26, 95 and 2

RELATING TO: Manufactured Home Communities

Agency contact person for substantive questions.

Name: Larry Swaziek

Title: Program Manager

Telephone No. 608/267-7701

Legislative Council report recommendations accepted in whole.

☐ Yes

☒ No

1. Review of statutory authority [s. 227.15(2)(a)]

- a. ☒ Accepted
- b. ☐ Accepted in part
- c. ☐ Rejected
- d. ☒ Comments attached

2. Review of rules for form, style and placement in administrative code [s. 227.15(2)(c)]

- a. ☒ Accepted
- b. ☐ Accepted in part
- c. ☐ Rejected
- d. ☐ Comments attached

(Continued on reverse side)

3. Review rules for conflict with or duplication of existing rules [s. 227.15(2)(d)]
- a. ☒ Accepted
 - b. ☐ Accepted in part
 - c. ☐ Rejected
 - d. ☐ Comments attached
4. Review rules for adequate references to related statutes, rules and forms [s. 227.15(2)(e)]
- a. ☒ Accepted
 - b. ☐ Accepted in part
 - c. ☐ Rejected
 - d. ☒ Comments attached
5. Review language of rules for clarity, grammar, punctuation and plainness [s. 227.15(2)(f)]
- a. ☐ Accepted
 - b. ☒ Accepted in part
 - c. ☐ Rejected
 - d. ☒ Comments attached
6. Review rules for potential conflicts with, and comparability to, related federal regulations [s. 227.15(2)(g)]
- a. ☒ Accepted
 - b. ☐ Accepted in part
 - c. ☐ Rejected
 - d. ☐ Comments attached
7. Review rules for permit action deadline [s. 227.15(2)(h)]
- a. ☒ Accepted
 - b. ☐ Accepted in part
 - c. ☐ Rejected
 - d. ☐ Comments attached

COMMENTS ON LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Clearinghouse Rule No. 04-135

Rule No.: Chapters Comm 26, 95 and 2

Relating to: Manufactured Home Communities

1.a. Section Comm 26.08 (1) was revised to read “. . . valid for a maximum period of 2 years . . .”, and the second Note had a sentence added indicating that permits issued after the beginning of a permit period are only valid until the end of the period.

4.a. In s. Comm 26.36 (1) (i), the cross-reference was changed to Comm 26.34 (8).

4.b. In s. Comm 26.45 (3), the cross-reference was changed to PSC 185.65 (2).

5.c. In s. Comm 26.09 (2) (b), the words “that create an immediate danger to health” were added after “other operations or methods of operation”.

5.d. The terms defined and used are consistent with the Statutes. In response to recent legislation, the word “park” was changed to “community”. Because of the intent in some rules to cover other residents besides the “occupant”, the word “occupant” was changed to “resident” in ss. Comm 26.10 (16), Comm 26.34 (7) and Comm 26.36 (1) (c).

5.k. Local agents of the department may not make the determinations specified in s. Comm 26.12 (4).

5.m. In s. Comm 26.28, the wording was changed to “a written notice that includes a summary of the rules”.

5.q. and s. Section Comm 26.32 (4) was deleted because Part 3 does not apply when payments for water and sewer service are included with rent payments. In sub. (6), the reference to sub. (4) was deleted and the words “each month” were added in the last sentence. Subsections (5) to (9) in s. Comm 26.32 were renumbered (4) to (8).

5.u. The word “new” has been in the code and it is preferred to continue to keep it. The normal dictionary definition meaning “appearing or existing for the first time” applies.

5.v. In s. Comm 26.32 (9) [renumbered to be (8)], the term “responsible party” was deleted. In s. Comm 26.35 (2) (a), the term was changed to “the occupant”.

5.w. In s. Comm 26.34 (1) (e), it is the intent that the operation of nonstandard equipment need not interfere with the service of others in order to qualify for disconnection.

5.x. In s. Comm 26.34 (4), it is the intent to allow an operator or contractor to disconnect service that is being obtained by a potentially unsafe method only when that method interferes with metering.

5.aa. Section Comm 26.35 (1) (c) was revised. The recommendation specifies the time period for postponement of the disconnection, but the rule indicates the operator or contractor need only postpone the disconnection for up to 21 days.

5.bb. In s. Comm 26.35 (2) (c), the wording was revised to read “. . . actions shall be taken by the manufactured home park occupant to avoid disconnection.”

5.gg. The note following s. Comm 26.36 (2) was deleted.

5.hh. In s. Comm 26.38 (2) (b), the operator or contractor should have already conducted an investigation. The wording was revised to read “. . . operator or contractor to provide investigative information regarding the dispute.”

5.kk. In s. Comm 26.38 (5) (a), the wording was revised to include either party and to indicate that the hearing is permissive.

5.ll. In s. Comm 26.38 (5) (c), the decision must not be immediate; the words “within 30 days” were added.

5.nn. Section Comm 26.39 was revised to allow complaints to the department for concerns not addressed under the dispute procedures in s. Comm 26.38. Subsection (2), which stated that complaints shall be resolved according to s. Comm 26.38, was deleted.

5.pp. Section Comm 26.44 (2) was revised to reference the request procedure in s. Comm 26.45.

5.qq. In s. Comm 26.45 (3), the last sentence was revised to read “. . . show the meter to be under registering or accurate . . .”



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 04-135

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 2002.]

1. Statutory Authority

Section Comm 26.08 states that permits will be valid for two years. As stated in the note, s. 101.935 (2) (c), Stats., provides that permits are valid for a two-year period that begins on July 1 of the even-numbered year and ends on June 30 of the next even-numbered year. Permits issued after the beginning of a permit period are only valid until the end of the period.

2. Form, Style and Placement in Administrative Code

a. 2003 Wisconsin Acts 118 and 145 place a number of additional requirements on agency rule-making. It is suggested that the rule be reviewed for compliance with the requirements of those Acts. See the Memo from the Clearinghouse to all agencies dated April 13, 2004.

b. In s. Comm 26.07, the first sentence should be changed to the active voice. This is a problem that occurs throughout the rule. In addition, “...which is affected...” should be “...that is affected...”

c. Section Comm 26.37 (4) and (5) would be better structured if all of sub. (5) were placed after the first sentence in sub. (4) and the last two sentences of sub. (4) were moved to become sub. (5).

4. Adequacy of References to Related Statutes, Rules and Forms

- a. In s. Comm 26.36 (1) (i), is s. Comm 26.32 (9) the appropriate cross-reference?
- b. In s. Comm 26.45 (3), is s. Comm 26.40 the correct cross-reference? Would it be more accurate to reference s. PSC 185.65 (2)?

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. Section Comm 2.33 (3) provides that the department assess an inspection fee, not to exceed \$100, for each inspection of a new manufactured home park, park expansion, or complaint. First, the use of the word “inspection” does not correlate with the use of the word “complaint.” Second, the rule should set the inspection fee with more certainty; a statement that the fee will not exceed \$100 leaves much room for the unequal imposition of a fee.
- b. Section Comm 26.09 (2) (a) is one very long sentence. It would be easier to comprehend if it were broken up to read “...operator in writing. The notice shall specify the changes...” This type of sentence occurs throughout the rule.
- c. In s. Comm 26.09 (2) (b), the first sentence is extremely long and awkward. It should be redrafted. The third sentence is confusing. What does “other operations or methods of operation” refer to?
- d. It would help the rule’s readability if “operator” were defined as “a manufactured home park operator” and “contractor” were defined as a “manufactured home park contractor.” The terms “manufactured home park” and “manufactured home park occupant” could similarly be defined as “park” and “occupant.”
- e. In s. Comm 26.10 (2), “...means the village...” should be “...means a village....”
- f. In s. Comm 26.10 (7), the last clause seems redundant. Why is the operator or contractor’s failure to meet its obligation to supply water and sewer service not simply a wrong, grievance, or injury?
- g. In s. Comm 26.10 (14), “and/or” should be “or” and “..., or both” should be added to the end of the sentence.
- h. In s. Comm 26.10 (16), it appears that the phrase “mobile home” should be inserted before the phrase “park occupant.” Also, the phrases “like infirmities incurred at any age” and “frailties associated with being very young” are quite unclear.
- i. In s. Comm 26.10 (19), “...plots of land...” should be “...sites....”

- j. In s. Comm 26.12 (1) (b), “The basic unit...” should be “Each basic unit...”
- k. In s. Comm 26.12 (4) (a), the phrase “Except as provided in par. (b),” should be inserted at the beginning of the paragraph. Also, may the local agents of the department make the determinations specified in this subsection? Finally, in pars. (a), (c), and (d), the word “which” should be replaced by the word “that.”
- l. In s. Comm 26.27, the first sentence is confusing. In addition, in the first sentence “which” should be changed to “that.”
- m. In s. Comm 26.28, what constitutes “written notice of the rules”? A copy of the rules? A statement that rules exist?
- n. In s. Comm 26.30 (2), “...facilities which serve...” should be changed to “...facilities that serve....”
- o. In s. Comm 26.30 (3) (a), “...department which demonstrates...” should be changed to “...department that demonstrates....”
- p. In s. Comm 26.31, “...may be based...” should be changed to “...shall be based....”
- q. In s. Comm 26.32 (4), what happens if the lease is silent as to the allocation of partial payments?
- r. In s. Comm 26.32 (5), “...penalty which would not...” should be “...penalty that would not....” Also, the phrase “manufactured home park occupant” should be replaced by the phrase “a manufactured home park occupant’s.”
- s. In s. Comm. 26.32 (6), it is unclear whether the subsection contemplates one late charge or many; are there separate late charges for current water and sewer service, and for arrears? If it is many, the last sentence should make clear whether the limit on late charges applies to each charge or to the total of all late charges. Finally, this subsection refers to sub. (4), which provides that if payments for water and sewer service are included with rent payments, the terms for the allocation of partial payments set forth in the lease agreement shall apply. However, s. Comm 26.29 provides that the provisions of Part 3 are not applicable to manufactured home park operators or manufactured home park contractors who include the costs associated with water and sewer service in their rental fees. Section Comm 26.29 should make an exception for the provisions of s. Comm 26.32 (4) and (6).
- t. In s. Comm. 26.32 (7) (a), is “the new charge” the “late payment charge”? If so, it should say “late payment charge.” Further, “date of initiation” is confusing. Initiation of what?

u. In s. Comm 26.32 (8) (a), reference is made to “new” manufactured home park occupants. The rule will be clearer if a reference is made to manufactured home park occupants beginning their occupancy on or after a specific date.

v. In s. Comm 26.32 (9), the term “responsible party” should be defined. The same term also appears in s. Comm 26.35 (2) (a). Further, the use of the passive voice in the third sentence makes the sentence confusing. If the sentence is meant to provide authority for an operator or contractor to disconnect service, it should read: “An operator or contractor may disconnect service if the occupant or other responsible party fails....”

w. In s. Comm 26.34 (1) (e), as the paragraph currently reads, the operation of nonstandard equipment need not interfere with the service of others in order to qualify for disconnection. Is that the intent? In addition, “...manner which...” should be “...manner that....”

x. In s. Comm 26.34 (4), is it the intent of the subsection to allow an operator or contractor to disconnect service that is being obtained by a potentially unsafe method only when that method is interfering with the metering?

y. In s. Comm 26.34 (5) (d), “...area which includes...” should be “...area that includes....”

z. In s. Comm 26.34 (7), since the operator or contractor is being prohibited from doing something, it seems that the “due notice” is provided to the operator or contractor. The subsection should be redrafted to make that clearer.

aa. In s. Comm 26.35, it seems unusual to have the postponement exist for up to 21 days, but to also require that the recommendation specify a time period during which the disconnection would “aggravate the circumstances.” Is the time period specified in the recommendation relevant? Further, “official which” should be changed to “official that.”

bb. In s. Comm 26.35 (2) (c), the second sentence is another good example of how passive voice can create ambiguity. Who is going to take the actions to avoid disconnection?

cc. In s. Comm 26.35 (2) (d), how is the paragraph related to s. Comm. 26.38? If it is just a reiteration of that section, then a cross-reference should be added so that the paragraph is not interpreted to create a separate appeal right.

dd. In s. Comm 26.35 (3), the sentence should be broken up into at least two sentences. For example “...business matters. If the operator or contractor is not available for all business matters, it shall be considered to be available if it provides personnel that....”

ee. In s. Comm 26.36 (1) (b) 2., the word “a” should be inserted before the word “deferred.”

ff. In s. Comm 26.36 (1) (e), “...any disagreement...” should be “...any charge....”

gg. In the note following s. Comm 26.36 (2), the full contact information for the department should be included.

hh. In s. Comm 26.38 (2) (b), should the operator or contractor have already conducted an investigation?

ii. In s. Comm 26.38 (3) (b), “...from the time that a request...” should be “...from the date that a request...” Further, it seems that there should be some requirement that the department inform the parties of the date of consideration. It also appears that the requirement to provide notice of consideration “15 business days prior to consideration” is a rather exact responsibility for the department to impose upon itself. Perhaps notice should be provided no less than 15 business days prior to consideration.

jj. In s. Comm 26.38 (4), “...of mailing the department determination.” should be “...after the date the department mailed the determination.”

kk. In s. Comm 26.38 (5) (a), what happens if the operator or contractor fails to meet a condition? Further, the sentence is awkward. Is it the intent of the sentence to bar subsequent hearings, or simply to make them permissive?

ll. In s. Comm 26.38 (5) (c), “...following the conclusion of the hearing.” seems to imply that the decision must be immediate. Is that the intent?

mm. In s. Comm 26.38 (6), “...which are not...” should be “...that are not....”

nn. In s. Comm 26.39, the complaint procedure should be made clearer. Subsection (1) authorizes the occupant to complain to the department. Subsection (2) states that complaints shall be resolved according to s. Comm 26.38, which requires the occupant to first attempt to resolve the dispute with the operator or contractor. Does sub. (1) eliminate the requirement to work out the dispute before coming to the department?

oo. In s. Comm 26.41, “...testing all of its...” should be “...testing of all of its....”

pp. In s. Comm 26.44 (2), should “...request or dispute.” be “...request or complaint.”?

qq. In s. Comm 26.45 (3), what happens if the meter is under registering? Does the reference to s. Comm 26.40 answer this question?

rr. In s. Comm 26.45 (4), “...shall be made to...” should be “...shall be provided to....”

ss. In s. Comm 26.48 (1), "...with safety to its employees, manufactured..." should be changed to "...with the safety of its employees, the manufactured...."

tt. The implication of s. Comm 26.49 (2) is that the cost of maintenance will be at the expense of the manufactured home park occupant if the manufactured home park occupant physically damages piping or discharges improper materials. This responsibility should be affirmatively stated.

DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE

Page 1 of 7

Clearinghouse Rule Number: 04-135		Hearing Location: Madison	
Rule Number: Chapters Comm 26, 95 and 2		Hearing Date: January 18, 2005	
Relating to: Manufactured Home Communities			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
1	Luke D. Rollins Wisconsin Housing Alliance Madison, WI	The Wisconsin Housing Alliance would like to thank the members of the Manufactured Homes & Home Parks Advisory Council for the dedicated and sincere work over the last several months with regards to these proposed rules. As well, the association would like to commend the Department of Commerce, Division of Safety & Buildings. The division’s efforts and management of the rules drafting process has been superb. The Wisconsin Housing Alliance supports the proposed rules as presented. The major improvements in particular are as follows: - Integration of PSC 186 into Comm 26 which provides for a more cohesive rule. - Improvement in the readability and practicality of the provision related to what is a “reasonable” water rate. The prior rule resulted in circular calculations. - Improved clarity related to management availability.	Comments noted.
Oral	Richard J. Rand Great Value Homes Inc. Milwaukee, WI (small business)	The proposed rules are supported. The proposed rules are an improvement over the current situation. The integration of PSC 186 into chapter Comm 26 results in a very cohesive rule. The department has done a good job in developing the proposed rules.	Comments noted.
2	Kristen Zehner Wisconsin Manufactured Home Owners Assoc. Marshall, WI	Written testimony submitted from numerous consumers around the state who contacted the association because of manufactured home park (MHP) problems. MHP consumer recommendations regarding proposed Comm 26 and 2 are as follows. 1. The word “Community” should replace “Park” because park has old stigmatizing and discriminatory connotations. 2. Language should be included requiring notification to all licensing municipalities, all park owners and all MHP residents during any year revised code becomes law, preferably by letter from all park owners to all residents. The letter should provide the URL link to revised code or a phone number to request hard copy.	1. Agree. In response to 2005 Wisconsin Act 45, “park” has been changed to “community”. 2. Agree in part. Proposed Comm 26.28 requires community owners to provide to new MHP residents, and to any resident making a request, a summary of the rules pertaining to deposits, payments, disconnection and dispute procedures. The department will post notification of changes on the safety and buildings web site.

DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE

Page 2 of 7

Clearinghouse Rule Number: 04-135		Hearing Location: Madison	
Rule Number: Chapters Comm 26, 95 and 2		Hearing Date: January 18, 2005	
Relating to: Manufactured Home Communities			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
		<p>3. Nowhere in this chapter is any reference made to defective water or sewer plumbing that leaks for one reason or another (failure to maintain), nor is any reference made to required remediation when the presence of substantial sand or other sediment exists in well-water-supplied MHPs. This needs to be addressed.</p> <p>4. Consumer should be paid interest on \$60 W&S deposit. Over several years, this is a free loan that pilfers funds from the consumer. We object to lack of interest.</p> <p>5. Comm 26.09 (2) (b). The language should be amended to include health, safety and welfare. MHP homeowners are at the financial mercy of landowners; lack of maintenance costs homeowners more than it should, while park owners pursue few remedies to address chronic maintenance problems. Wisconsin enforces very few of its MHP laws on behalf of MHP homeowners.</p> <p>6. Third party billing of W&S charges in metered MHPs in affected municipalities: A method whereby park operators can and do take advantage to cook the books, while flouting law. Excessive pass-through metering charges are illegal but are done anyway because MH residents cannot afford to take it to court.</p> <p>7. Comm 26.15. This should be changed to read: “a continuous and adequate supply of potable water free of sediment, odor, . . .”</p> <p>8. Comm 26.18. This item fails to make any reference or mention of manager skills and competence certification. We want language requiring landlords to hire or train managers with demonstrated competency, with proof of MHP management skills, as well as educational accreditation in MHP law within 6 months of hire and on a regular basis. We demand language in this chapter acknowledging this omission and including it, since this is the primary source of trouble in MHPs.</p>	<p>3. Disagree. Proposed Comm 26.14 requires water and sewer systems to be constructed and maintained in compliance with the state plumbing code.</p> <p>4. Disagree. Under proposed Comm 26.33 (1), the water and sewer deposit is optional. The DATCP does not require interest to be paid on rental security deposits.</p> <p>5. Disagree. The language is based on the statutory authority under s. 101.935 (2) (e), Stats., as referenced in the rule. That statute only includes health.</p> <p>6. Proposed Comm 26.30 establishes requirements for reasonableness of water and sewer rates. Complaints regarding violations of those rules need to be submitted to the department for action.</p> <p>7. Agree in part. The word “potable” has been added to the rule.</p> <p>8. Disagree. The rules specify how the MHP is to be managed and operated. A manager with demonstrated competency may still choose to violate the rules. The department would need statutory authority to implement a certification program.</p>

DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE

Page 3 of 7

Clearinghouse Rule Number: 04-135		Hearing Location: Madison	
Rule Number: Chapters Comm 26, 95 and 2		Hearing Date: January 18, 2005	
Relating to: Manufactured Home Communities			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
		<p>9. Comm 26.25. This should be amended to read: “. . . shall furnish reasonably adequate and cost-effective service and facilities as required by this subchapter.” Wisconsin needs to enforce failed maintenance obligations by park owners.</p> <p>10. Comm 26.26. This should be amended to read: “No MHP operator or contractor may provide water and sewer service to any residential customers living in a manufactured home park at a billing rate differing from other municipal residential customers who receive W&S service.”</p> <p>11. Comm 26.30. Why don’t rental rates cover business expenses? Isn’t that what rent is for? We object to the 30% add-on since it pays park expenses that are already covered by rent. Why no ceiling on park expenses? Operators can claim any numbers they want because no one has access to their books except them. Where’s the accountability? And by whom?</p> <p>12. Copies were submitted of letters and news articles regarding problems in MHPs relating to flushing water mains, electrical service, speeding traffic, harassment and discrimination toward tenants, contaminated water, non-enforcement of park rules and regulations, rent increases, installation deficiencies, improper maintenance and repairs, mold/toxins, lease renewal, and stormwater infiltration.</p>	<p>9. Disagree. The addition of “cost-effective” without a definition would be difficult to enforce.</p> <p>10. Disagree. Proposed Comm 26.26 requires rate uniformity among community occupants; proposed Comm 26.30 (2) regulates residential customer rates as compared to community occupant rates.</p> <p>11. Disagree. The 30% is only allowed where service is not metered, and it is intended to recover the operational, maintenance and capital costs associated with the water and sewer service facilities. Also, the rule prohibits charging more than the retail rates of the local municipality’s water and sewer service operation.</p> <p>12. The proposed rules address the problems noted as allowed under the statutory authority for the rules. The department investigates complaints as staff resources permit.</p>
3	Joan Hackbarth Marshall, WI	A new mobile home was purchased from Skyline Mobile Homes. They are now out of business and there is no way to get replacement parts. The house is not set up right on its foundation, the wiring was not wired correctly causing a meltdown of the wires, the microwave shorted out and has to be replaced, the kitchen gas stove burnt the tile on the kitchen floor, the marriage beam is sagging, the floors are warping, the water stinks, the toilets backup, and the park owners do nothing but raise the rent. The park owner keeps poor records and does not maintain the park appearance.	The proposed rules address the problems noted as allowed under the statutory authority for the rules. The department investigates complaints as staff resources permit.

DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE

Page 4 of 7

Clearinghouse Rule Number: 04-135		Hearing Location: Madison	
Rule Number: Chapters Comm 26, 95 and 2		Hearing Date: January 18, 2005	
Relating to: Manufactured Home Communities			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
4	Mary J. Quartuecio WIMHOA Marshall, WI	Submitted same comments/recommendations as items 1. to 11. under Exhibit No. 2.	See responses under Exhibit No. 2.
5	Cindy Gamillo WIMHOA Marshall, WI	Submitted same comments/recommendations as items 1. to 11. under Exhibit No. 2.	See responses under Exhibit No. 2.
6	Richard H. Ring Marshall, WI	Submitted same comments/recommendations as items 1. to 11. under Exhibit No. 2.	See responses under Exhibit No. 2.
7	Walter and Eleanor Shakstad WIMHOA Marshall, WI	Submitted same comments/recommendations as items 1. to 11. under Exhibit No. 2.	See responses under Exhibit No. 2.
8	Aaron Kreilkamp Madison, WI	Submitted same comments/recommendations as items 1. to 11. under Exhibit No. 2.	See responses under Exhibit No. 2.
9	Robert Huggins Self Marshall, WI	Submitted same comments/recommendations as items 1. to 11. under Exhibit No. 2.	See responses under Exhibit No. 2.
10	Delbert Elmer Marshall, WI	Submitted same comments/recommendations as items 1. to 11. under Exhibit No. 2.	See responses under Exhibit No. 2.
11	Kristen Zehner Marshall, WI	A loophole currently exists in the law that does not give residents who live in MHPs without meters the right to question municipal rates because residents do not receive a direct W&S bill. This is an oversight that needs to be addressed. Metered MHP residents do have this right merely because of the existence of individual meters and metered monthly bills. Residents in metered and non-metered MHPs, however, do pay water and sewer bills, but are treated like non-residential customers, when nothing could be farther from the truth. The Village of Marshall has the same groundwater infiltrate problem as Evergreen Park, but only Evergreen is being	A change in the law must be addressed through legislative action.

DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE

Page 5 of 7

Clearinghouse Rule Number: 04-135		Hearing Location: Madison	
Rule Number: Chapters Comm 26, 95 and 2		Hearing Date: January 18, 2005	
Relating to: Manufactured Home Communities			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
		surcharged for excess sewage via a double-metering system (separate water intake and sewage output metering). The plumbing problem is due primarily to rainfall seeping into defective pipes in the Village and in Evergreen. Neither the Village nor AMHC has considered the ultimate costs to the shortened longevity of the Village sewer system.	
12	David R. Sparer Herrick & Kasdorf, LLP Madison, WI	<p>1. The penalties under s. 101.94 (8) (c), Stats., are not very high for an operator’s violation and lack of cooperation with voluntary efforts to obtain compliance. Section 101.965 is better, and provides for private enforcement by the occupants, the individuals who suffer the violation. Adopting rules that have little likelihood of enforcement does not actually help the occupants of the parks who are allegedly the people for whom these protections are being adopted. This is a serious concern and changes should be adopted to correct this. The changes would need to be statutory; however, the department should forcefully seek those changes along with submitting this code draft for approval by the legislature.</p> <p>2. These rules create and leave open one gaping loophole. That loophole is the situation where the operator fits the charges into the rent without separately billing for it. Charging for the water and sewer services in this manner apparently completely exempts the operator from all regulations regarding billing and charges included in this code. If a park is operated such that the municipality individually meters the homes, then state statutes provide all sorts of protections for the residents to ensure fair billing and provision of service. One simple way to correct this is to require that water and sewer bills be separately itemized in absolutely all cases. Comm 26.25 is the obvious location for such a requirement. The code provides a broad range of options for doing this, and that is fine. All the regulations focused upon making sure that such billing is fair and equitable are already included.</p>	<p>1. Disagree. The monetary penalties under s. 101.94 (8) (c), Stats., can be significantly higher than under s. 101.965 because the former section allows for each day of violation to be a separate violation. The department enforces rules as staff resources permit.</p> <p>2. Disagree. Rental agreements are regulated under DATCP rules. The proposed rules relating to water and sewer service are based on the current PSC 186 rules. Those rules do not apply to communities where the costs associated with water and sewer service are included in rental fees.</p>
13	Brian Brown ABT Water Management Inc	The department should consider a penalty clause for those tenants in a manufactured home park that illegally re-connect water utilities on their own after water utilities have been lawfully unconnected.	Disagree. This is not a code issue; it is a matter of theft between the tenant and community owner/operator.

DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE

Page 6 of 7

Clearinghouse Rule Number: 04-135		Hearing Location: Madison	
Rule Number: Chapters Comm 26, 95 and 2		Hearing Date: January 18, 2005	
Relating to: Manufactured Home Communities			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
	Janesville, WI		
14	Kristen Zehner Marshall, WI	Letter submitted from Jerry Alexander regarding a prepaid repair order that had been delayed and ignored by the maintenance manager of Evergreen Village Mobile Home Park. Repairs were to be completed prior to sale of a mobile home, and they were not completed on the day of the sale.	This is not pertinent to the proposed rules.
15	Don Wick (via Email)	<p>1. As a mobile home park is really a community (commonly within another community), and these units are now renamed manufactured homes, should we also rename the "park" a "community"?</p> <p>2. Comm 26.08 Permit. Suggest a statement to recognize the agent option to charge fees and issue permits annually; also suggest something be stated such as "No Permit is transferable to another operator."</p> <p>3. Comm 26.10 Definitions (9). Suggest dimensions be clearly "exterior" dimensions.</p> <p>4. Comm 26.12 Physical Layout (1) (a). Suggest adding "Each site shall be marked with its designated site number on a sign which is clearly visible from the street adjacent to the parking spaces."</p> <p>5. Comm 26.12 Physical Layout. Consider adding for example "The basic unit and all accessory attached/detached structures, vehicles, and other items shall not occupy more than 40% of the total area of the site." This would limit deck, addition, shed, vehicle, boat, camper, trailer, etc.</p> <p>6. Comm 26.18 Management (2). If a manufactured home is rented, should management also be required to register the name of the responsible person who is renting the unit?</p> <p>7. Also, should we define seasonal use only parks and allow for example, water supply piping not installed below frost depth?</p>	<p>1. Agree. In response to 2005 Wisconsin Act 45, “park” has been changed to “community”.</p> <p>2. Disagree. By statute, the term of the permit is 2 years. During the 2-year period, the permit is transferable from one operator to another upon notification to the department or its agent. A sentence has been added to require that notification.</p> <p>3. In response to 2005 Wisconsin Act 45, the definition has been revised; the revision removed the dimensions.</p> <p>4. Disagree. This is a local safety and fire protection issue.</p> <p>5. Disagree. This is a local zoning issue.</p> <p>6. Agree. The words “and occupants” have been added in Comm 26.18 (2) for consistency with the registration required under Comm 26.19.</p> <p>7. Disagree. The code requirements apply regardless of frequency of use of the homes. Comm 82.40 (8) (a) addresses frost protection of water supply piping.</p>

DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE

Page 7 of 7

Clearinghouse Rule Number: 04-135		Hearing Location: Madison	
Rule Number: Chapters Comm 26, 95 and 2		Hearing Date: January 18, 2005	
Relating to: Manufactured Home Communities			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response